

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAVONE SMITH,

Plaintiff,

Case No. 1:23-cv-601

v.

Honorable Ray Kent

SCOTT WRIGGLESWORTH et al.,

Defendants.

ORDER FOR PARTIAL DISMISSAL
and PARTIAL SERVICE

In accordance with the opinion filed this date:

IT IS ORDERED that Plaintiff's federal claims against Defendants Wrigglesworth, Book, and Nemeth be **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. §§ 1915(e) and 1915A, and 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that Plaintiff's state law claims against Defendants Wrigglesworth, Book, and Nemeth be **DISMISSED WITHOUT PREJUDICE** because the Court declines to exercise supplemental jurisdiction over such claims.

IT IS FURTHER ORDERED that Plaintiff's official capacity claims against Defendants Southworth, Daenzer, Earle, Wallen, Thrasher, Vail, Shoyinka, Zurek, Wilson, Viher, Tyler, and Dormer be **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. §§ 1915(e) and 1915A, and 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that the Clerk shall forward the complaint to the U.S. Marshals Service, which is authorized to mail a request for waiver of service to Defendants Southworth, Daenzer, Earle, Wallen, Thrasher, Vail, Shoyinka, Zurek, Wilson, Viher, Tyler, and

Dormer in the manner prescribed by Fed. R. Civ. P. 4(d)(2). If waiver of service is unsuccessful, summons shall issue and be forwarded to the U.S. Marshals Service for service under 28 U.S.C. § 1915(d).

IT IS FURTHER ORDERED that Defendants Southworth, Daenzer, Earle, Wallen, Thrasher, Vail, Shoyinka, Zurek, Wilson, Viher, Tyler, and Dormer shall file an appearance of counsel (individual Defendants may appear *pro se* if they do not have counsel) within 21 days of service or, in the case of a waiver of service, 60 days after the waiver of service was sent. Until so ordered by the Court, no Defendant is required to file an answer or motion in response to the complaint, and no default will be entered for failure to do so. *See* 42 U.S.C. § 1997e(g)(1). After a Defendant has filed an appearance, proceedings in this case will be governed by the Court's Standard Case Management Order in a Prisoner Civil Rights Case.

Dated: July 31, 2023

/s/ Ray Kent
Ray Kent
United States Magistrate Judge